

# ALSTON & BIRD

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December 14, 2018

## **VIA ECF**

The Honorable Henry Pitman  
United States Magistrate Judge  
United States Courthouse  
500 Pearl Street  
New York, NY 10007-1312

Re: **Coventry Capital v. EEA Life Settlements Inc., No. 17-cv-07417**

Dear Judge Pitman:

We represent Defendant EEA Life Settlements, Inc. (“EEA Inc.”) in the above referenced matter and write in response to the letter of Plaintiff Coventry Capital US LLC (“Coventry”) to Your Honor dated, December 11, 2018.

First, Coventry grossly distorts the current discovery landscape as it relates to EEA Inc. As an initial matter, EEA Inc. has made every effort to locate and produce responsive documents in this case. As stated in EEA Inc.’s June 19, 2018 letter to Your Honor (Dkt. No. 71), upon discovering that the majority of its responsive documents were located on ViaSource Funding Group, LLC’s (“ViaSource”) servers, EEA Inc. promptly made a written request to ViaSource for all such documents to produce in this litigation. In response, ViaSource informed EEA Inc. that it would only provide it with a small subset of documents that it determined belonged to EEA Inc., claiming that the majority of the documents were the property of ViaSource. Upon receipt of that subset of documents from ViaSource, EEA Inc. promptly produced 327 responsive documents, including documents from Christopher T. Daly’s personal email account. ViaSource then produced 1,600 responsive documents located on its servers. To date, EEA Inc. and ViaSource have produced a total of 1,927 responsive documents.<sup>1</sup>

With respect to potentially responsive documents located abroad, EEA Inc. has repeatedly stated that it does not have possession, custody or control over those documents. Indeed, EEA Inc. has made multiple requests to EEA Fund Management (Guernsey) Limited (the “Guernsey Manager”), the UK-based entity holding potentially responsive documents, to provide it with responsive information to produce in this case. The Guernsey Manager has refused to provide EEA Inc. with information in response to these requests.

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<sup>1</sup> Ironically, Coventry has also produced 1,927 documents to date.

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*See* Dkt. No. 54 ¶¶ 17, 19. Thus, it is not EEA Inc.’s “refusal to produce relevant documents within [its] possession, custody or control,” but rather Coventry’s refusal to engage in other available means to obtain foreign discovery, such as proceeding through the Hague Convention, that has purportedly halted discovery in this case. And Your Honor has repeatedly echoed this point. *See* Dkt. No. 82 at 39:12-16 (THE COURT: “Well, is a sanction appropriate here when you haven’t exhausted Hague Convention discovery?... You might be able to get all the documents you want.”)

Second, as noted in our December 12, 2018 letter (Dkt. No. 94), Coventry misrepresents the circumstances surrounding the parties’ recent settlement discussions. Settlement discussions were only discontinued after the parties were unable to come to an agreeable negotiation framework that would permit a potential purchase of the entire Portfolio – *not* as a result of a refusal by EEA Inc. to provide relevant information for a negotiated resolution. Because the parties could not agree upon a settlement framework, EEA Inc. agrees that continued settlement discussions would not be productive.

Lastly, although EEA Inc. would like this case resolved as soon as possible, instead of moving forward with the dates proposed in Coventry’s December 11, 2018 letter, EEA Inc. proposes that a revised discovery schedule be revisited after Your Honor has ruled on Coventry’s pending motion to compel (Dkt. No. 66), as that ruling could have a significant impact on the breadth and scope of discovery. In the meantime, EEA Inc. is amenable to adjourning the upcoming December 17, 2018 Requests for Admission deadline and rescheduling it to a later date once Coventry’s pending motion to compel has been decided.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Karl Geercken", is written over a horizontal line.

Karl Geercken

cc: Counsel of Record